



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2021-0854; FRL-9381-02-R3]

Air Plan Approval; Delaware; Philadelphia Area Base Year Inventory for the 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision formally submitted by the State of Delaware. This revision consists of the base year inventory for the Delaware portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE marginal nonattainment area (Philadelphia Area) for the 2015 ozone national ambient air quality standards (NAAQS). This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2021-0854. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Adam Yarina, Planning & Implementation

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SUPPLEMENTARY INFORMATION: On October 9, 2020, the Delaware Department of Natural Resources and Environmental Control (DNREC) on behalf of the State of Delaware, submitted a revision to the Delaware SIP entitled, “2017 Base Year Emissions Inventory State Implementation Plan for VOC, NO_x, and CO for Areas of Marginal Nonattainment of the 2015 Ozone NAAQS in Delaware.” New Castle County comprises Delaware's portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE 2015 ozone NAAQS nonattainment area. This SIP revision, referred to in this rulemaking action as the “New Castle County base year inventory SIP,” addresses Delaware's base year inventory requirement for the 2015 ozone NAAQS.

I. Background

The background for this action is discussed in detail in the January 21, 2022 notice of proposed rulemaking (NPRM) and will not be restated here. See 87 FR 3259. The NPRM proposed to approve the 2017 New Castle County base year inventory SIP for the 2015 ozone NAAQS for the Philadelphia Area because the State prepared the inventory in accordance with the requirements in sections 172(c)(3) and 182(a)(1)¹ of the CAA and its implementing regulations, including those at 40 CFR 51.1315. EPA is finalizing its proposed approval of Delaware’s 2017 New Castle County base year inventory for the 2015 ozone NAAQS for the Philadelphia Area.

II. Response to Comments Received

EPA held a 30-day public comment period on the NPRM for this action, beginning on January 21, 2022 and ending on February 22, 2022. No comments were received.

III. Final Action

¹ 42 U.S.C. 7502(c)(3), 7511a(a)(1)

EPA's review of this material indicates the New Castle County base year inventory SIP meets the base year inventory requirements for the 2015 ozone NAAQS for the Philadelphia Area. Therefore, EPA is approving the New Castle County base year inventory SIP, which was submitted on October 9, 2020.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this final rule approving Delaware's base year inventory SIP for the 2015 ozone NAAQS does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Nitrogen dioxide, Volatile organic compounds.

Dated: March 20, 2022

Diana Esher,
Acting Regional Administrator,
Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart I—Delaware

2. In § 52.420, the table in paragraph (e) is amended by adding an entry for “Philadelphia Area Base Year Inventory for the 2015 Ozone National Ambient Air Quality Standards” at the end of the table to read as follows:

§ 52.420 Identification of plan.

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(e)* * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * *	* *	* *	*	
Philadelphia Area Base Year Inventory for the 2015 Ozone National Ambient Air Quality Standards	Delaware's portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE 2015 ozone NAAQS nonattainment area (i.e., New Castle County).	10/09/20	[insert date of publication in the Federal Register], [insert Federal Register citation]	Delaware’s portion of the Philadelphia Area consists of New Castle County.